

Foo et al.

S/N: 09/682,685

REMARKS

Claims 1-29 are pending in the present application. In the Office Action mailed December 18, 2003, the Examiner initially objected to the oath or declaration as being defective. The Examiner rejected claims 8, 9, 19, 20, 28, and 29 under 35 U.S.C. §101 as claiming the same invention as that of claims 8, 9, 29, 20, 28, and 29 of issued USP 6,498,946. The Examiner next rejected claims 21-29 under 35 U.S.C. §101 stating that the claimed invention is directed to non-statutory subject matter. The Examiner objected to claim 13 as lacking an antecedent basis for the term "the sequence." Applicant appreciates the indicated allowability of claims 1-7, 10-12, and 14-18 and the indication of allowability of the subject matter of claim 13.

The Examiner objected to the oath or declaration as defective stating that the last page of the oath which includes the inventor's names, address, and signature was missing. Applicant submitted a Request to Correct Inventorship on April 4, 2003 that properly set forth the inventorship of the above-captioned application. Enclosed therewith was a Declaration that was properly executed by two inventors. Applicant has not received a Notice to File Missing Parts regarding the above-captioned application. Included herewith is a courtesy copy of the submission filed April 4, 2003 that includes a complete copy of the properly executed Declaration and Power of Attorney for the above-captioned matter.

The Examiner rejected claims 8, 9, 19, 20, 28, and 29 under 35 U.S.C. §101 as claiming the same invention as claims 8, 9, 19, 20, 28, and 29 of issued USP 6,498,946. Claims 8, 19, and 28 have been amended. Claims 8, 19, and 28 are no longer coextensive with that which is claimed in the corresponding claims of USP 6,498,946 and therefore do not claim the "same invention" as disclosed therein. Since claims 9, 20, and 29 depend from claims 8, 19, and 28, respectively, and do not claim the "same invention" as USP 6,498,946, claims 9, 20, and 29 are believed to be in condition for allowance. Therefore, as claims 8, 9, 19, 20, 28, and 29 do not claim the "same invention" as USP 6,498,946, Applicant requests withdrawal of the §101 rejection.

The Examiner next rejected claims 21-29 under 35 U.S.C. §101 stating that:

[T]he claimed invention is directed to non-statutory subject matter. A pulse sequence is considered to be a type of signal which does not encompass any of the statutory categories of invention. Applicant's attention is invited to MPEP 2106 which states "Claims that recite nothing but the physical characteristics of a form of energy such as frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly v. Morse, 56 U.S. (15 How.) 62 112-14 (1853)."

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The Examiner's attention is invited to the very next sentence of MPEP §2106.IV.B.1(c) which states:

"However, a signal claim directed to a practical application of electromagnetic energy is statutory regardless of its transitory nature. See O'Reilly, 56 U.S. at 114-19; In re Breslow, 616 F.2d 516, 519-21, 205 USPQ 221, 225-26 (CCPA 1980)."

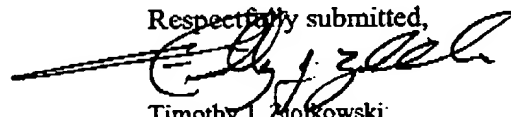
Claims 21-29 of the present application define "a pulse sequence for use in multi-slice MR data acquisition." Applicant is not simply claiming the physical characteristics of a form of energy. Claims 21-29 call for a signal directed to a practical application of electromagnetic energy and is therefore statutory regardless of the transitory nature of the signal. The Examiner's rejection of claims 21-29 is not supported by the MPEP or case law. Additionally, it is noted that the legally related issued USP 6,498,946 contains claims similarly structured - - see claims 21-29. Applicant requests withdrawal of the rejection to claims 21-29.

The Examiner objected to claim 13 stating that "the sequence" recited in claim 13 lacks antecedent basis. Applicant has amended claim 10 to index the acts of the computer program. Claim 13, which depends from claim 10, has been amended to further define the acts of the computer program of claim 10. As such, Applicant believes the elements of claim 13 are fully supported and therefore requests the Examiner withdraw her objection.

Therefore, in light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-29.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,



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